

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 07-20532-BC
Honorable Thomas L. Ludington

ROBERT LOUIS BELL,

Defendant.

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ORDER DENYING MOTION TO ADJUST SENTENCE

On May 7, 2010, Defendant Robert Louis Bell filed a motion to adjust his sentence pursuant to Federal Rule of Criminal Procedure 36, contending that the Bureau of Prisons (“BOP”) did not properly credit time served by Defendant between his arrest and the entry of judgment on February 18, 2009. Rule 36 is not the proper avenue for Defendant’s motion because he has not alleged the Court made “a clerical error in a judgment, order, or other part of the record.” Fed. R. Crim. P. 36. Even if it were, the motion must be denied because Defendant has not alleged that he has exhausted the available administrative remedies before filing the motion in this Court. *United States v. Singh*, 52 F. App’x 711, 712 (6th Cir. 2002). If Defendant believes that the BOP’s beginning computation date of February 17, 2009 is incorrect or that he deserves credit for time he spent in custody between his arrest and the imposition of his sentence, he must apply for administrative relief through the BOP before seeking relief from this Court. *Id.*

Moreover, an initial review of the records submitted by Defendant do not indicate an error. When defendant was sentenced he was still under sentence from the Saginaw County Circuit Court for a controlled substances offense that occurred on November 16, 2006. According to the Michigan Department of Corrections Web site, his state sentence ended on June 2, 2009. As a result, he was

serving a state prison sentence the entire time he was in custody on federal charges and he is not entitled to credit on his federal sentence for that time. 18 U.S.C. § 3585(b).

Accordingly, it is **ORDERED** that Defendant's motion to adjust sentence [Dkt. # 141] is **DENIED WITH PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: May 19, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 19, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS